

## **Labor Compliance Program**

### **Frequently Asked Questions**

#### **1. What's this about?**

*Prop. 84 required every project to comply with the section of the Labor Code that requires a Labor Compliance Program (LCP).*

#### **2. What is a LCP?**

*LCP is a confusing term because it can mean two different things. A LCP is an authorization by the Department of Industrial Relations (DIR) that states an awarding body is qualified to monitor the payment of prevailing wage on a construction contract. So you can apply for, and receive, a LCP from the DIR and the awarding body can HAVE a LCP.*

*A LCP is also the actual activities that are conducted by an awarding body to ensure that prevailing wage is paid on a construction project. These activities are all listed in Question #6 below.*

#### **3. What's changed?**

*Previously, the DIR certified third parties to administer LCPs, so you could hire a third party to manage the prevailing wage issues for your project, using their LCP.*

*Last summer, the DIR rescinded all the third party certifications. Now, each awarding body needs to have its own LCP.*

#### **4. What does it take to get a LCP?**

*The application is on the DIR website. The DIR only approves applications where the awarding body has significant experience in managing public works contracts. If you don't have this experience, you'll probably want to hire a consultant to help you.*

#### **5. Who are these consultants and what will they do for me?**

*Many of these consultants are entities that used to have their own LCP certification. Now, you can hire them to assist in completing your application and administering your program. The consultant can cite their expertise in administering public works contracts, because they will be the entity actually running the LCP.*

*Let's try an example:*

*In the past, if you had a public works contract that required a LCP, you could have contacted a group like 123 Consulting. 123 Consulting would be certified by the DIR to administer third party LCPs, and would handle all the LCP requirements of your project.*

*Now, 123 Consulting is no longer certified. No third parties are certified. So, you hire 123 Consulting, they apply for you to get your own LCP, and handle all the LCP requirements of your project.*

*From a practical perspective, there may not be that big a difference.*

## **6. What's involved in an LCP? Could I do this myself?**

*Here are the requirements of a LCP:*

- *All bid invitations and public works contracts shall contain appropriate language concerning the requirements of the Labor Code regarding prevailing wage on public works projects.*
- *A pre-job conference shall be conducted with contractor and subcontractors to discuss federal and state labor law requirements applicable to the contract.*
- *Contractor and subcontractors shall maintain and furnish to the awarding body certified payroll of each weekly payroll.*
- *The awarding body shall review, and, if appropriate, audit payroll records to verify compliance with the Labor Code.*
- *The awarding body shall withhold contract payments when payroll records are delinquent or inadequate.*
- *The awarding body shall withhold contract payments equal to the amount of underpayment and applicable penalties when, after investigation, it is established that underpayment has occurred.*
- *A Labor Compliance Program must be approved by the Director of the Department of Industrial Relations.*

*All the tasks listed above, plus helping you to get your own LCP and answering your questions about this process, are tasks that a consultant can help you with. If your organization has an existing LCP, or extensive experience with public works contracts, you may be able to manage your own program.*

**7. Where can I get a list of LCP consultants?**

*While the DIR doesn't provide an actual list, you can get a list of potential consultants on the DIR website, under Labor Law, Public works, Labor compliance programs, Annual Reports at: <http://www.dir.ca.gov/lcp/AnnualReports.asp>.*

*What you will see is a list of annual reports filed for LCPs. If the first name on the report isn't an awarding body, it is a potential LCP consultant.*

**8. When should I contact a LCP consultant?**

*We recommend contacting a consultant as soon as possible, even if you've already started or even finished construction on your project. As noted above, labor law is complicated. It's not that we don't want to answer your questions; we just believe that you'd be better off talking to someone with expertise on this issue.*

**9. What about off-site fabrication?**

*You should talk to a LCP consultant.*

**10. What if I use my own workforce?**

*You should talk to a LCP consultant.*

**11. Are LCP consultant costs eligible?**

*Yes. You may charge the costs of the Labor Compliance Program to the grant.*